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On behalf of the United States Bankruptcy Appellate Panel of the Tenth Circuit (BAP), I am pleased to provide this report on the BAP's eighth full year of operation. As noted in the following, the calendar year 2004 boasts of many significant achievements and successful endeavors.

The number of bankruptcy appeals in all participating BAP districts increased slightly over 2003 from 137 to 144. The number of appellants electing to proceed before the BAP decreased by 8% to 65%, due in part to one bankruptcy order that spawned 16 appeals. Because the order related to issues of state law, the appellant elected to take the appeals to the district court. Through the end of 2004, 113 BAP decisions have been appealed to the Tenth Circuit Court of Appeals. Of these, 101 have been concluded. Forty-two were decided on the merits and affirmed the decision of the BAP; 54 were dismissed and the remaining five were reversed and remanded. For the eighth year, the judges of the BAP have achieved their goal of disposing of most appeals within 60 days from submission, with a 2004 median "submission to disposition" time of 52 days. The time span from the date the notice of appeal was filed with the Bankruptcy Court to the date the BAP entered a final judgment averaged 153 days.

The Judicial Counsel Resolution establishing the BAP states that the panel will be composed of nine active bankruptcy judges appointed by the Chief Judge of the Tenth Circuit. In the past three years, the composition of the panel has undergone major changes, due notably to retirements and appointments to the district court bench. The year 2004, however, was a year of stability, providing the BAP with the well timed opportunity to evaluate its practices and procedures. A Procedural Committee was organized, consisting of the Honorable Tom Cornish, Eastern District of Oklahoma, and the Honorable Terrence L. Michael, Northern District of Oklahoma. Together, they have commenced the process of evaluating current and proposed procedures, and have formed recommendations for the consideration and approval of the entire panel. An Administrative Meeting Committee was established, consisting of the Honorable Glen E. Clark, District of Utah, and the Honorable Peter J. McNiff, District of Wyoming. Together, they have ensured the value and integrity of the BAP judges meetings, and have provided a forum for the exchange of ideas and the development of short and long range goals. A mentor program was developed, the goal of which is to partner an experienced BAP judge with a new BAP judge or pro tem judge. A BAP Judges web site was launched, providing access to digital recordings of oral argument sessions and serving as a valuable on-line resource for many

publications including the BAP Judges Handbook. The dedication and commitment of the many judges and staff who have contributed their time and talents to the betterment of the BAP is gratifying.

The use of pro tem judges provides the panel with additional experience and expertise and serves to strengthen the efforts of the BAP. In 2004 two of our esteemed colleagues from the Bankruptcy Court for the District of Colorado served as pro tem judges, the Honorable Sidney B. Brooks, Chief Judge, and the Honorable A. Bruce Campbell. On behalf of the BAP I would like to extend my sincere appreciation to them for their service.

With any paper intensive operation, the concern of a natural or other disaster involving water is a valid one. And predictably, a disaster never occurs during normal business hours. Over the weekend of August 7, a water heater malfunctioned, causing water to leak from the ceiling into the Clerk's Office equipment room, and through the walls and into the corridor hallway. The leak was discovered late Sunday night by a security guard during a routine walk through of the building. The building management, the General Services Administration, and staff from the Office of the Circuit Executive, specifically Space and Facilities and Systems, responded immediately and professionally. Due to the quick response by all individuals and agencies involved, the final damage was limited to space issues such as wet dry wall and carpeting, and no case files or equipment were lost.

In my 2003 report, I stated that the BAP looks forward to the appellate version of the new case management and electronic case filing system ("CM/ECF"), anticipated in the Spring of 2005. Wishful thinking perhaps, as we now look forward to the implementation of CM/ECF anticipated in the Spring of 2006. Until that time, the BAP Clerk's Office continues to make changes to adapt to the advanced technology in use by the Bankruptcy Courts. With assistance from bankruptcy court staff in the District of Wyoming, the BAP now receives the transmission of the notice of appeal and the preliminary record by automatic CM/ECF notification from the majority of the bankruptcy courts in the Tenth Circuit. Staff in the BAP Clerk's Office are registered users of the CM/ECF bankruptcy system in the Districts of Colorado, Kansas, Eastern and Northern Oklahoma, Utah, and Wyoming. In those courts, papers formerly sent to the bankruptcy court by mail are now electronically filed, thereby eliminating the cumbersome scanning and docketing process for the bankruptcy courts. I would like to thank the staff in the bankruptcy courts throughout the Tenth Circuit for their cooperation, assistance and patience, while we adjust, adapt, and wait for newer technology.

On October 20, 2004, the district judges for the District of Colorado voted

to authorize the services of the BAP in the District of Colorado, effective January 3, 2005. With the addition of Colorado to the BAP, all districts in the Tenth Circuit have now authorized participation in the BAP. In preparation for this event, the Honorable Elizabeth B. Brown, District of Colorado, and staff from the BAP Clerk's Office conducted three continuing legal education programs for the Colorado bankruptcy bar: two in Denver, and one in Colorado Springs. Informational packages containing the BAP local rules, the Guide to BAP Appeals, a list of frequently asked questions, and a handout specifically addressing the needs of the bar and the court were distributed. The presentations were well attended, and the comments received from the members of the bar were favorable. The BAP will continue to explore methods of disseminating information throughout Colorado and the districts within the Tenth Circuit. On behalf of the BAP, I would like to thank Judge Brown, and all those involved in this momentous undertaking. We look forward to assisting the federal bench and the Colorado bar with the growing number of bankruptcy appeals.

Once again in closing, I must acknowledge that the accomplishments of the BAP would not have been possible without the considerable assistance and support of my colleagues, the Judges of the Tenth Circuit Court of Appeals, the Office of the Circuit Executive, the Tenth Circuit Clerk's Office, the District and Bankruptcy Court Judges and Clerks' Offices, and the Bankruptcy Appellate Panel Clerk's Office. As always, their advice and support are very much appreciated.